

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1312 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHAHJAHKHAN ISMAILKHAN PATHAN

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner

MS. GAJJAR APP for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 07/10/97

ORAL JUDGEMENT

Rule. Ms. Gajjar, learned A.P.P. waives service of rule.

It is obvious that even at the end of the trial the vehicle bearing registration No.GJ-1-T-4909 cannot be either kept by the authorities or confiscated to the State as the offence is under the Prevention of Cruelty

to Animals Act where Section 11 read with Section 12 provides only for disposal of animals affected by the alleged act.

Merely because the vehicle is used, it cannot be kept either with the police authorities or with the magistrate as muddamal when at the end of the trial it has to be allowed to be returned to the owner.

Under these circumstances, the order passed by the learned Judicial Magistrate, First Class, and confirmed by the learned Additional Sessions Judge, Ahmedabad City, cannot be sustained. Both the orders are set aside. The application for return of muddamal is granted. However, the petitioner shall execute a bond of Rs. 1 lakh with a condition that as and when required the vehicle shall be produced before the trial court and shall not be either transferred, disposed or dealt with in any manner without permission of the trial court and the owner shall see that the vehicle in question is not utilised for any purpose other than purely legal and covered by the permit issued under the Motor Vehicles Act pertaining to transport of goods. Looking to the past record as noted in the orders the petitioner shall also undertake that he shall not allow carriage of animals in the vehicle in future.

Rule is made absolute accordingly. Direct service is permitted.